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Media Release

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Legislation Protecting Delaware's Environment Wins Legislative Approval

Polluters ignoring state law will face toughen penalties under bill proposed by Attorney General Biden

Dover – A bill that will lead to stronger enforcement of Delaware's environmental protection laws – and stiffer consequences for polluters who repeatedly break those laws – passed the state Senate on Thursday night.

Senate Bill 92, which already won approval in the House, strengthens and expands Delaware's laws targeting those who chronically pollute our environment. The bill was drafted by the Attorney General's Office and sponsored by Sen. David McBride (D-Hawks Nest), Rep. Quinn Johnson (D-Middletown), Rep. Michael Mulrooney (D-Pennwood), and Rep. Debra J. Heffernan (D-Bellefonte, Claymont, Edgemoor).

"We are protecting our air, water and soil from those who repeatedly pollute our environment," said Attorney General Biden. "Companies who view environmental penalties as merely a cost of doing business will face significantly higher penalties for damaging our environment. I want to thank the Senator McBride, Representative Johnson, Representative Mulrooney, and Representative Heffernan for their hard work and support."

"Delaware's a great place to do business, and we're blessed because most Delaware companies play by the rules every day. But sadly there are some companies that cut corners, pay fines and just make it a cost of doing business," McBride said. "These are the companies that we need to stop because these are the ones that have a lifetime impact on the air and water our children breathe and drink."

The new law is aimed at chronic polluters who demonstrate a pattern of ignoring Delaware's environmental protection laws, show no willingness to reduce pollution from their facilities or appear to view environmental penalties as a cost of doing business. It gives the Department of Natural Resources and Environmental Control (DNREC) clearer authority to designate polluters as chronic violators, which triggers enhanced financial penalties for future emissions. The bill also beefs up those penalties. Previously, a chronic violator could only be fined a maximum of \$10,000 per day. When the new law takes effect, violators can be fined a maximum of \$10,000 per illegal emission per day.

Rep. Quinn Johnson, who chairs the House Natural Resources Committee, said the legislation would hold chronic violators accountable and protect taxpayers against bearing the burden of cleanup costs.

“I am pleased that the Senate has passed this important piece of legislation and am looking forward to passing the bill in the House,” said Rep. Johnson. “We must make sure that we are protecting our environment and holding polluters accountable.”

“DNREC has done its best to make these violators follow our laws, but have been frustrated in their attempts to use what could be a very useful tool,” said Rep. Mulrooney. “We hope that these changes will make violators think twice before disregarding our laws and will finally give DNREC the authority to deal with businesses whose irresponsibility damages our environment and leaves taxpayers holding the tab.”

“Our natural resources – our air, water and soil – should not be abused,” said Rep. Heffernan. “This legislation will strengthen DNREC’s ability to enforce the rules and protect our environment from chronic violators.”

Specifically, the new law:

- Clarifies the definition of chronic violator status that applies to parties that demonstrating either an inability or an unwillingness to comply with Delaware law, or to parties that appear to treat environmental penalties simply as a business expense rather than an environmental threat it must correct.
- Broadens the standards and criteria DNREC uses to declare a chronic violator to include parties that have not adequately funded or modernized their operations, maintenance, training programs and risk management reviews and to parties that have not used recognized and generally accepted engineering and other industry practices to ensure compliance with environmental regulations.
- Updates DNREC's authority to amend and modify chronic violator regulations and enhances administrative penalties for violators. It significantly increases financial penalties from the previous maximum of \$10,000 per day to \$10,000 for each separate release of each identifiable pollutant per day. This increased penalty can be substantially higher and acts as a more effective deterrent.

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